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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

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In re:) P & S Docket No. 12-0539
)
)
Daniel F. Froman,)
)
d/b/a R&K Real Estate, Inc.,)
)
Respondent) Consent Decision and Order

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. § 181 et seq.), by a complaint filed by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that respondent Daniel F. Froman, doing business as R&K Real Estate, Inc., willfully violated the Act and the regulations promulgated thereunder (9 C.F.R. § 201.1 et seq.). This decision is entered pursuant to the consent decision provision of the rules of practice applicable to this proceeding (7 C.F.R. § 1.138).

The respondent admits the jurisdictional allegations in paragraph I of the Complaint and specifically admits that the Secretary has jurisdiction in this matter, neither admits nor denies the remaining allegations, waives oral hearing and further procedure, and consents and agrees, for the purpose of settling this proceeding and for such purpose only, to the entry of this

decision.

The complainant agrees to the entry of this decision.

Findings of Fact

(a) Respondent Daniel F. Froman is an individual. Respondent was the 100% Owner and Operator of R&K Real Estate, Inc., a corporation organized under the laws of the State of Missouri in 1982, and which was administratively dissolved on August 25, 2010. After such time, Respondent Froman continued to conduct business as a sole proprietorship doing business as R&K Real Estate, Inc., and doing business as Gallatin Livestock Auction. Respondent Froman is currently incarcerated at the Federal Correctional Institution in Texarkana, TX, and his mailing address is:

Daniel F. Froman, Register # 23082-045
Federal Correctional Institution
FCI TEXARKANA
P.O. Box 7000
Texarkana, TX 75505

(b) Respondent Daniel F. Froman, doing business as R&K Real Estate, Inc., was at all times material herein:

(1) Engaged in the business of conducting and operating the Gallatin Livestock Auction, a stockyard posted under and subject to the provisions of the Act;

- (2) Engaged in the business of a market agency selling livestock on a commission basis in commerce;
- (3) Engaged in the business of a dealer buying and selling livestock in commerce; and
- (4) Registered with the Secretary of Agriculture, in the name of R&K Real Estate, Inc., as a market agency to sell livestock on a commission basis in commerce, and registered as a dealer to buy and sell livestock in commerce.

Conclusions

The respondent having admitted the jurisdictional facts and the parties having agreed to the entry of this decision, such decision will be entered.

Order

Respondent, his agents and employees, directly or through any corporate or other device, in connection with his activities subject to the Act, shall cease and desist from:

- (1) Failing to maintain his "Custodial Account for Shippers' Proceeds" in conformity with the provisions of section 201.42 of the regulations (9 C.F.R. § 201.42);

(2) Failing to deposit in his "Custodial Account for Shippers' Proceeds" within the times prescribed by section 201.42 of the regulations (9 C.F.R § 201.42) amounts equal to the outstanding proceeds receivable from the sale of consigned livestock;

(3) Using funds received from the sale of consigned livestock for the payment of bank fees, or for any purpose other than payment to consignors of the amount due from the sale of their livestock and the payment of lawful marketing charges;

(4) Failing to keep and maintain accounts, records and memoranda as fully and correctly disclose all transactions involved in his business, as required by section 401 of the Act (7 U.S.C. § 221), including, but not limited to: (1) a complete and accurate custodial account check register showing all custodial checks issued and the purposes therefor; (2) complete and accurate schedules of outstanding checks on custodial analysis dates; (3) complete and accurate invoices related to his purchase and sale of livestock; and (4) complete and accurate journals, records and memoranda adequate to document amounts due to sellers of livestock and amounts owed by purchasers of livestock;

(5) Failing to pay and failing to pay, when due, the full purchase price of livestock as required by section 409 of the Act (7 U.S.C. § 228b); and

(6) Failing to have and maintain sufficient funds on deposit and available in the account upon which checks for livestock purchases are drawn to pay them when presented.

Respondent Daniel F. Froman, only in his capacity as a registrant who is registered with the Secretary of Agriculture as doing business in the name of R & K Real Estate, Inc., registered as a market agency to sell livestock on a commission basis in commerce and registered as a dealer to buy and sell livestock in commerce, is suspended as a registrant for a period of fifteen years.

Respondent Daniel F. Froman, in his individual capacity, is prohibited from being registered and engaging in any activities for which registration is required under the Act for a period beginning on the effective date of this order and ending on July 24, 2022, and thereafter until such time as respondent demonstrates to the satisfaction of GIPSA that he has an adequate bond or bond equivalent and that he is in full compliance with the Act. Provided that respondent demonstrates to the satisfaction of GIPSA that he has an adequate bond or bond equivalent and that he is in full compliance with the Act, after July 24, 2022, upon application to GIPSA a supplemental order may be issued terminating the prohibition on respondent being registered. At such time and thereafter, any application for

registration that respondent may file with GIPSA will be processed in accordance with standard GIPSA procedures.

Pursuant to section 303 of the Act (7 U.S.C. § 203), respondent is prohibited from engaging in business subject to the Act without being registered with the Packers and Stockyards Program.

This Order shall have the same force and effect as if entered after full hearing. The provisions of this Order shall become final and effective on the sixth day after service of this Consent decision and Order on respondent.

Copies of this decision shall be served upon the parties.



Daniel F. Froman
Respondent



Joel Pelofsky
Berman, DeLeve, Kuchan & Chapman, LLP
Counsel for Respondent

1 March 2013



Krishna G. Ramaraju
Attorney for Complainant

Done at Washington, D.C.

this 8th day of March, 2013



Janice K. Bullard
Administrative Law Judge